IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION CIVIL ACTION NO. 1:17-CV-056-GCM-DCK

STACEY MICHELLE EDWARDS,)	
for C.H.H., a minor,)	
)	
Plaintiff,)	
)	
V.)	MEMORANDUM AND
)	RECOMMENDATION
NANCY A. BERRYHILL,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on Plaintiff's "Motion To Dismiss Civil Action, Pursuant To Rule 41(a)(2) Federal Rules Of Civil Procedure" (Document No. 13). This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and is ripe for disposition. Having carefully considered the motion, the record, and applicable authority, the undersigned will recommend that the motion be granted.

Plaintiff Stacey Michelle Edwards, appearing for minor C.H.H. ("Plaintiff" or "Edwards"), filed her "Complaint" (Document No. 1) on February 24, 2017, against the Acting Commissioner of the Social Security Administration ("Defendant"). Defendant's "Answer" (Document No. 9) was filed on August 7, 2017.

The Court entered a scheduling order on August 15, 2017, requiring the parties to file their motions for summary judgment by October 16, 2017 and December 13, 2017. On October 12, 2017, the undersigned granted Plaintiff's consent "Motion To Reset Deadlines" (Document No. 11), allowing summary judgment motions to be filed by November 10, 2017 and January 10, 2018.

Plaintiff Edwards then filed the pending "Motion To Dismiss ..." (Document No. 13) on November 10, 2012. Plaintiff now seeks to voluntarily dismiss this action pursuant to Fed.R.Civ.P. 41(a)(2). (Document No. 13). Defendant has declined to file a response to the motion, and the time to do so has lapsed. This motion is now ripe for review and a recommendation to the Honorable Graham C. Mullen is appropriate.

Based on Plaintiff's motion and cited authority, as well as Defendant's failure to file a timely response, the undersigned finds good cause to recommend that the motion be granted.

RECOMMENDATION

FOR THE FOREGOING REASONS, the undersigned respectfully recommends that Plaintiff's "Motion To Dismiss Civil Action, Pursuant To Rule 41(a)(2) Federal Rules Of Civil Procedure" (Document No. 13) be **GRANTED**.

TIME FOR OBJECTIONS

The parties are hereby advised that pursuant to 28 U.S.C. § 636(b)(1)(C), and Rule 72 of the Federal Rules of Civil Procedure, written objections to the proposed findings of fact, conclusions of law, and recommendation contained herein may be filed within **fourteen (14) days** of service of same. Responses to objections may be filed within fourteen (14) days after service of the objections. Fed.R.Civ.P. 72(b)(2). Failure to file objections to this Memorandum and Recommendation with the District Court constitutes a waiver of the right to *de novo* review by the District Court. <u>Diamond v. Colonial Life</u>, 416 F.3d 310, 315-16 (4th Cir. 2005). Moreover, failure to file timely objections will preclude the parties from raising such objections on appeal. <u>Diamond</u>, 416 F.3d at 316; <u>Page v. Lee</u>, 337 F.3d 411, 416 n.3 (4th Cir. 2003); <u>Snyder v. Ridenhour</u>, 889 F.2d 1363, 1365 (4th Cir. 1989); <u>Thomas v. Arn</u>, 474 U.S. 140, 147-48 (1985), <u>reh'g denied</u>, 474 U.S. 1111 (1986).

IT IS SO RECOMMENDED.

Signed: December 8, 2017

David C. Keesler

United States Magistrate Judge